

the plan, although a corrective compliance plan is deemed to be accepted if we take no action during the 60-day period following our receipt of the plan.

(h) If a State does not submit an acceptable corrective compliance plan on time, we will assess the penalty immediately.

(i) We will not impose a penalty against a State with respect to any violation covered by a corrective compliance plan that we accept if the State completely corrects or discontinues, as appropriate, the violation within the period covered by the plan.

(j) Under limited circumstances, we may reduce the penalty if the State fails to completely correct or discontinue the violation pursuant to its corrective compliance plan and in a timely manner. To receive a reduced penalty, the State must demonstrate that it met one or both of the following conditions:

(1) Although it did not achieve full compliance, the State made significant progress towards correcting or discontinuing the violation; or

(2) The State's failure to comply fully was attributable to either a natural disaster or regional recession.

[64 FR 17890, Apr. 12, 1999, as amended at 71 FR 37481, June 29, 2006]

§ 262.7 How can a State appeal our decision to take a penalty?

(a)(1) We will formally notify the Governor and the State agency of an adverse action (i.e., the reduction in the SFAG) within five days after we determine that a State is subject to a penalty under parts 261 through 265 of this chapter.

(2) Such notice will include the factual and legal basis for taking the penalty in sufficient detail for the State to be able to respond in an appeal.

(b)(1) The State may file an appeal of the action, in whole or in part, with the HHS Departmental Appeals Board (the Board) within 60 days after the date it receives notice of the adverse action. The State must submit its brief and supporting documents when it files its appeal.

(2) The State must send a copy of the appeal, and any supplemental filings, to the Office of the General Counsel, Children, Families and Aging Division,

Room 411-D, 200 Independence Avenue, SW., Washington, DC 20201.

(c) We will submit our reply brief and supporting documentation within 45 days of the receipt of the State's submission under paragraph (b) of this section.

(d) The State may submit a reply and any supporting documentation within 21 days of its receipt of our reply under paragraph (c) of this section.

(e) The appeal to the Board must follow the provisions of the rules under this section and those at §§ 16.2, 16.9, 16.10, and 16.13–16.22 of this title, to the extent that they are consistent with this section.

(f) The Board will consider an appeal filed by a State on the basis of the documentation and briefs submitted, along with any additional information the Board may require to support a final decision. Such information may include a hearing if the Board determines that it is necessary. In deciding whether to uphold an adverse action or any portion of such action, the Board will conduct a thorough review of the issues.

(g)(1) A State may obtain judicial review of a final decision by the Board by filing an action within 90 days after the date of such decision. It should file this action with the district court of the United States in the judicial district where the State agency is located or in the United States District Court for the District of Columbia.

(2) The district court will review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by 5 U.S.C. 706(2). The court will base its review on the documents and supporting data submitted to the Board.

PART 263—EXPENDITURES OF STATE AND FEDERAL TANF FUNDS

Sec.

263.0 What definitions apply to this part?

Subpart A—What Rules Apply to a State's Maintenance of Effort?

263.1 How much State money must a State expend annually to meet the basic MOE requirement?